

## CHAPTER 46

**SURVIVOR BENEFIT PLAN - ANNUITY AMOUNT AND OFFSETS**4601 ANNUITY AMOUNT460101. General

A. The SBP, as originally enacted, provided a monthly annuity of 55 percent of the annuity base amount, cost-of-living adjusted, to the eligible spouse or children. The monthly annuity for a natural person with an insurable interest was 55 percent of the amount of the gross retired pay after cost of participation is subtracted. The annuity payable to a spouse was subject to social security offset when the spouse reached age 62.

B. If the former spouse election was effective before March 1, 1986, an annuity is provided under the insurable interest category. The annuity for a former spouse election effective on or after March 1, 1986 (or where coverage was changed to spouse category with former spouse's concurrence), is provided under the spouse category.

C. Effective March 1, 1986, under Public Law 99-145, section 711 (reference (fc)), there is a two-tier annuity benefit system for spouse and former spouse (spouse category) beneficiaries. The social security offset system was eliminated. Effective March 1, 1986, if the spouse or former spouse (spouse category) annuitant is under age 62 when becoming entitled to the annuity, the monthly annuity is 55 percent of the base amount, as adjusted under 10 U.S.C. 1401a (reference (c)). If the beneficiary is age 62 or older when becoming entitled to the annuity, the monthly annuity is 35 percent of the base amount, as adjusted under 10 U.S.C. 1401a (reference (c)). Where the annuitant reaches age 62 after becoming entitled to the annuity, the amount of the annuity is reduced to 35 percent of the base amount, as adjusted by 10 U.S.C. 1401a (reference (c)), on the first day of the month after the annuitant reaches age 62. The annuity entitlement for a natural person with an insurable interest or former spouse (insurable interest category) remains unchanged.

1. A spouse or former spouse who is an eligible annuitant on October 1, 1985, will receive 55 percent of the base amount, as adjusted under 10 U.S.C. 1401a (reference (c)), less social security offset or 35 percent of the base amount, as adjusted under 10 U.S.C. 1401a (reference (c)), whichever is greater. The greater amount becomes payable March 1, 1986 or effective on the first day of the month after the annuitant reaches age 62, whichever is later. There is no subsequent comparison.

2. The eligible spouse or former spouse beneficiary of a member on October 1, 1985, who:

- a. Is a Plan participant,
- b. Is entitled to retired pay,

c. Is qualified for that pay except that member has not applied for or been granted that pay, or

d. Would be eligible for retired pay under 10 U.S.C., Chapter 1223, (reference (c)) but for the fact that member is under age 60, may receive the greater of the two annuity amounts described in subparagraph 460101.C.1., above. The greater annuity amount becomes payable the first month the annuitant would otherwise be entitled to the annuity of 35 percent of the base amount. There is no subsequent comparison.

D. Effective April 1, 1992, a member may provide the spouse or former spouse annuitant with a Supplemental SBP (SSBP) annuity. The SSBP is an additional 5, 10, 15, or 20 percent of the annuity base amount as elected by the member and becomes payable when the annuitant reaches age 62. The SSBP is increased by cost-of-living adjustments similar to SBP.

460102. Eligible Annuitants and Annuity Amounts. Monthly annuities to which a survivor becomes entitled on or after October 1, 1983, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Annuities to which survivors were entitled on September 30, 1983, shall be rounded when there is an adjustment under 10 U.S.C. 1401a (reference (c)); then, and with each subsequent adjustment, the amount as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. All subsequent adjustments shall be based on the rounded amount. SSBP annuities, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

A. Spouse or Former Spouse (Spouse Category) Only. See Table 46-1. The SBP annuity for a spouse or former spouse is reduced by any Dependency and Indemnity Compensation (DIC), if the annuity is payable on behalf of the same member. An SSBP annuity is not reduced by DIC.

B. Children Only. If there is more than one eligible child, the annuity is paid in equal shares. The annuity for children is not subject to DIC offset.

C. Spouse and Child or Former Spouse and Child. The annuity is paid to the spouse or former spouse, as long as eligibility exists. If the surviving spouse or former spouse loses eligibility due to death or remarriage before age 55 (age 60, if remarried before November 14, 1986), the annuity is paid to the child annuitants. An election for former spouse and child includes the children that resulted from the member-former spouse marriage. The annuity amount for the spouse or former spouse is shown on Table 46-1. The annuity amount for children is the same as for children only in subparagraph 460102.B, above. If member elects coverage for the spouse and children and the spouse is not eligible under 10 U.S.C. 1447(3)(A) (reference (c)), the spouse qualifies as the eligible annuitant on the birth of a posthumous child of the member's marriage.

D. Former Spouse (Insurable Interest Category) or Natural Person with an Insurable Interest. The annuity is payable only to the former spouse or natural person with an insurable interest as designated by or on behalf of the member. The benefits may not be transferred to another person. The annuity amount is 55 percent of the member's gross retired pay less cost, at the time of member's death. The annuity is not reduced by DIC.

460103. Payment of Annuity

A. The SBP annuity is paid monthly to the eligible annuitant. The SBP payment is effective the first day after the death of the member unless death occurs on the 30th day of a 31-day month. In that case, the annuity starts on the first day of the next month. If a member elected coverage for a former spouse between September 8, 1982 and January 31, 1983, and died before February 1, 1983, the annuity begins February 1, 1983. Annuity payments end effective the last day of the month before the month in which the annuitant becomes ineligible.

1. An annuity for a minor child is paid to the legal guardian or, if there is no legal guardian, to the natural parent who has care, custody, and control of the child as the custodian, or to a representative payee of the child. An annuity may be paid directly to the child when the child is considered to be of majority age under the law in the state of residence. The child then is considered an adult for annuity purposes and a custodian or legal fiduciary is not required. See Appendix H for age of majority by state.

2. When the payment of premiums is in arrears, no annuity may be paid until that debt, with interest (6 percent compounded annually) has been recovered.

3. Debts of a deceased member, other than for delinquent premiums, are not the responsibility of the annuitant and may not be offset involuntarily against the annuity.

4. The annuity is neither assignable nor subject to execution, levy, attachment, or garnishment (except for alimony or child support).

5. Debts to the United States or any of its instrumentalities incurred by the annuitant may be offset from the annuity.

6. The annuity may be paid to a trustee in bankruptcy pursuant to the order of a bankruptcy court in a proceeding under Chapter 13 of the Bankruptcy Code (reference (dg)) since such proceeding is voluntary.

7. An annuity may be paid to a third party on behalf of an incapacitated annuitant only if the third party has been appointed as guardian, custodian, or other fiduciary pursuant to a state court order or has been designated a representative payee under subparagraph 460103.C., below. Otherwise, the annuity may be paid only to the annuitant unless the annuitant has been determined to be incompetent of managing his or her own affairs by a state court, physician or psychologist. If the annuity cannot be paid directly to the annuitant or to a third party, amounts will remain unpaid and credited on account until the annuitant is determined to be competent or until a third party has been properly appointed to receive the annuity on behalf of the annuitant.

8. An eligible survivor who is physically or mentally incapacitated (but who has not been determined to be mentally incompetent by a state court, physician, or psychologist) may accept assistance from a person holding a power of attorney in completing

(including the signature element) and filing the annuity application form. Benefit payments must be made payable thereunder directly to the annuitant.

9. If the Secretary of the Military Department concerned determines that a participating member is presumed dead, the annuity accrues from the first day after retired or retainer pay was suspended or would have been suspended had the member been in receipt of pay on the basis that the member is missing.

B. The SSBP annuity begins on the later of:

1. The day on which SBP annuity becomes payable to the spouse or former spouse beneficiary if age 62 or older; or

2. The first day of the month after the month in which the spouse or former spouse beneficiary becomes age 62.

The SSBP annuity is paid monthly. The SSBP terminates effective the first day of the month in which the spouse or former spouse dies or becomes ineligible to receive an SBP annuity (except if ineligible for SBP annuity due to DIC award). SSBP coverage was not available until April 1, 1992, and the earliest effective date for SSBP annuity payment is May 1, 1992.

C. The SBP annuity due a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed may be paid to a representative payee, who in the judgment of the Secretary of the Military Department concerned, is responsible for the care of the annuitant. This includes any SSBP payable to the spouse or former spouse annuitant. The representative payee is required to spend or invest the amount paid on behalf of the annuitant solely for the benefit of the annuitant. The representative payee must certify that SBP (and SSBP, if applicable) payments received on the annuitant's behalf are used for the annuitant's benefit.

1. An annuitant is determined to be incompetent if the Secretary concerned receives an actual determination of incompetency made either by a state court, or by a physician or psychologist. A representative payee will not be established solely on the basis of a letter request from a third party that an annuitant is incapable of handling financial affairs. The annuitant will be notified of actions being taken to make a determination of incompetency and will be provided an opportunity to review the evidence being considered. The annuitant also will have the opportunity to submit additional evidence before a determination is made.

2. If a court order provides for payment of a fee to the representative payee, or if the Secretary concerned determines that payment of a fee is necessary in order to obtain the fiduciary services of a representative payee, a monthly fee will be allowed. In such circumstances, a fee of 4 percent of the monthly SBP annuity will be allowed, unless a court order dictates a lesser fee. In the case of a spouse or former spouse annuitant, the fee will be no more than 4 percent of the adjusted annuity-gross annuity less any DIC or social security offset reduction. Any court order that provides for a fee in excess of 4 percent shall be limited to 4 percent. The

representative payee will be notified of the fee percentage allowed. The fee is not a separate payment to be mailed to the representative payee, but can be withheld by the representative payee from the monthly annuity payment. The fee is part of the periodic financial accounting by the representative payee.

3. In cases where it appears necessary to protect the annuitant, the Secretary concerned may require the payee to provide a surety bond in an amount sufficient to protect the interests of the annuitant. The representative payee may pay for such bond(s) out of the SBP annuity. This is part of the periodic financial accounting by the representative payee. The Secretary concerned will determine the amount necessary in surety bond(s) based on the amount of the SBP annuity payable. A surety bond ordinarily will not be required if the representative payee is a close family member or a government or financial institution.

4. The representative payee shall be required to maintain (and, upon request by the Secretary concerned, provide) a periodic accounting of expenditures and investments of amounts paid to the payee. If the representative payee is a close family member or a government or financial institution, a periodic accounting will not be required. In situations where a periodic accounting is required, it ordinarily will be submitted annually, unless the Secretary concerned determines that a more frequent submission is required.

a. Final financial reporting will be required upon: the loss of a beneficiary's eligibility; a change of representative payee; or the determination later that an annuitant is competent to manage financial affairs.

b. Major expenditures (i.e., those in excess of \$1,000 or the value of the annuity for one year, whichever is less) from the representative payee's bank account for the annuitant require prior written approval by the Secretary concerned.

c. If the Secretary concerned has evidence to suggest that the annuity funds have been or are being misused by the representative payee, the annuity may be suspended. An investigation will be conducted to determine if a new representative payee should be appointed or if payments may be resumed to the representative payee.

5. The selection of the representative payee will be made on the basis of the individual annuitant's circumstances. Generally, the order of preference for appointing a representative payee is the:

- a. Spouse
- b. Son or daughter or legally adopted son or daughter
- c. Brother or sister
- d. Parents

- e. Head of federal or state institution
- f. Trustee of a private trust
- g. Any other individual whose appointment appears to be in the best interest of the annuitant.

If more than one person or institution requests to be named the representative payee of the annuitant, the Secretary concerned shall determine which applicant is a more appropriate payee.

6. In addition to SBP annuity payments (including payments to Minimum Income Widows covered under Chapter 51 of this volume), annuity payments under USCOA, RSFPP, and RCSBP also may be made to a representative payee.

7. The representative payee will be required to submit Reports of Existence and Certificates of Continued Eligibility as specified in Chapter 50 of this volume.

8. An annuity paid to a person on behalf of an annuitant in accordance with these provisions discharges the obligation of the United States for payment to the annuitant of the amount of the annuity paid.

460104. Provisional Annuity Payments

A. In cases involving delayed receipt of an annuity application, the head of the retired pay activity may authorize that provisional annuity payments for 2 consecutive months provided that all of the following conditions have been met:

- 1. The Military Service verifies that the member is deceased
- 2. The annuitant has been contacted
- 3. The SBP election confirms the beneficiary's identity and eligibility
- 4. The annuity to a child is paid only after the Military Service verifies school attendance for dependent child annuitants age 18 to 22.

B. Upon receipt of the annuity application, there will be an adjustment for the difference between the actual annuity entitlement due and the provisional annuity payments made.

C. Annuity payments will be suspended if a completed annuity application is not received within 60 days of the first provisional payment.

4602 OFFSETS TO THE ANNUITY

460201. When Required. The gross SBP annuity payable to a spouse or former spouse (spouse category) is offset by an award of DIC. The annuity may be further reduced by social security offset. Social security offset was eliminated March 1, 1986. When the two-tier benefit system was established, a grandfather provision allowed certain annuitants to receive annuity computed at 55 percent of the annuity base amount less social security offset if it exceeded 35 percent of the base amount. Where both offsets apply, DIC is applied first.

460202. Dependency and Indemnity Compensation (DIC) Offset. The Department of Veterans Affairs (VA) determines entitlement to and the amount of the DIC award. DIC rates are listed in Appendix L. DIC rates were based on pay grade of member until January 1, 1993. Effective January 1, 1993, DIC is payable at a flat-rate, cost-of-living adjusted. The survivors of members who died before January 1, 1993 continue to receive DIC rates based on pay grade, if it exceeds the flat-rate. The award is effective the first day of the month in which the retiree dies. The DIC payment begins on the first day of the month after the effective date of the award. The SBP annuity is reduced by the amount of the DIC as of the date on which the DIC payment begins. The DIC offset equals the actual DIC payment the spouse or former spouse receives and it increases each time DIC rates increase. For offset purposes, the DIC entitlement does not include any amount attributable to child entitlement or aid and attendance. Payment of the SBP annuity is not withheld or delayed pending verification of the DIC award if the annuitant signs a statement authorizing the VA to collect any overpayment that results from the overlap of the DIC and SBP payments.

A. Premium Refund Due to DIC Award

1. SBP. When an annuity is reduced due to DIC entitlement, a refund of SBP premium is made based on the difference between the premium actually paid and the premium that would have been needed to provide the annuity payable after the DIC reduction. The refund of premium is computed using the SBP annuity of 55 or 35 percent, whichever is applicable on the effective date of the DIC award. If the annuity is later reduced to 35 percent at age 62, no additional refund is due. If DIC entitlement is lost due to remarriage of the spouse or former spouse, SBP may be reinstated provided the spouse or former spouse repaid, or is repaying in installments, the refund of SBP contributions. When a refund is repaid and annuity begins, no additional refund is authorized if spouse or former spouse again becomes entitled to DIC.

2. SSBP. SSBP premium are not refunded. At age 62 when the SBP annuity amount decreases to 35 percent, SSBP becomes payable at the 5, 10, 15, or 20 percent rate elected by the member whether or not the SBP annuity is or was exceeded by DIC.

B. DIC Equal to or Greater than Annuity. The SBP annuity to the spouse or former spouse ends permanently except under the conditions shown in subparagraph 460202.D., below. The SSBP annuity is not affected. The SBP premium for spouse or former spouse only is refunded to the spouse or former spouse after any annuity debt is liquidated. If the annuitant dies before a refund of SBP premium is made, the refund shall be made to the annuitant's estate. If the

spouse or former spouse becomes ineligible through death, the full annuity is paid to the eligible children in equal shares.

C. Sample Computation of Refund. See Tables 46-2, 46-3, and 46-4 for a sample computation of refund. If DIC later exceeds the gross SBP annuity, the SBP annuity to the spouse or former spouse terminates.

D. Reinstatement of SBP Annuity Upon Loss of Entitlement to DIC Because of Remarriage After Age 55

1. If the spouse or former spouse whose SBP annuity entitlement was adjusted under subparagraph 460202.A. or B., above, subsequently loses entitlement to DIC because of remarriage, and the beneficiary is 55 years of age (60 years of age if remarried before November 14, 1986) or more at the time of remarriage, the annuity is reinstated under conditions specified in subparagraph 460202.D.2., below, on the effective date of the loss of DIC entitlement. The annuity is adjusted to reflect all authorized cost-of-living adjustments. If the spouse or former spouse again should become eligible for DIC, a second refund is not authorized if the spouse or former spouse received any annuity payments.

2. The widow(er) or former spouse who loses entitlement to DIC may repay the amount due in either a lump sum or in installments. If repayment is in installments, the installment payments is deducted from the SBP annuity payable. The installment will be 50 percent of the DIC amount or 50 percent of the gross annuity, whichever is less. When annuity is increased by cost-of-living adjustment, the same percentage increase will be applied to the installment deduction. No interest will accrue until the date of the first readjusted annuity payment. Thereafter, interest accumulates on any unrepaid balance at the rate of .534 of 1 percent monthly until the full amount has been repaid. Thus, the remaining debt on the date of each installment deduction will be increased by a factor of 1.00534. This is based on the 12th root of 1 plus the current 6.6 percent annual interest rate used by the DoD Board of Actuaries to determine the retirement accrual cost.

E. Late Award of DIC. When a claim for DIC is not filed within 1 year after the member's death and the spouse received an SBP annuity, no cost refund is made when DIC is later awarded. The effective date of the reduced annuity is the date that the VA receives.

460203. Social Security Offset

A. Social security offset was eliminated on March 1, 1986; however, certain spouse and former spouse annuitants age 62 or over are eligible under the social security offset system, if it provides a larger SBP annuity. Annuitants who are eligible under the grandfather provision include:

1. The spouse annuitant of a member who, on October 1, 1985:
  - a. Is a participant in the plan;



b. Is entitled to retired pay or is qualified for that pay except that member has not applied for or been granted that pay; or

c. Would be eligible for retired pay under 10 U.S.C., Chapter 1223 (reference (c)), except member is under age 60.

2. The former spouse annuitant of a member described in subparagraphs 460203.A.1a through c, above, whose divorce from the member became final on or after November 30, 1989.

★B. Before March 1, 1986, spouse annuity was reduced by social security offset based on eligibility for or receipt of social security benefits resulting from a member's active service after December 31, 1956. The SBP annuity was reduced by social security offset based on entitlement to the social security benefits of the mother, or father, or widow(er). Benefits in the social security offset system are computed under the primary insurance amount (PIA) Table Method, a Decoupled (Indexing) Formula Method, or a Transitional Guarantee Savings provision.

1. Under the PIA Table Method, the social security benefit is based upon the PIA which is determined from a schedule that relates the member's average monthly earnings (AME) under social security covered employment to the PIA. See Appendix S for this method which applies to members who attained age 62, became disabled or died before January 1, 1979. If a member in a missing-in-action status later is presumed dead, include in social security benefits only earnings through the year in which the member entered the "missing" status.

2. Under the Decoupled Formula Method (also called the "Indexing Method"), the social security benefit is computed by indexing the member's past earnings, which take into account the change in general wage levels that has occurred during the member's years of service, in proportion to the increase in average wages of all workers. Use this method to determine the member's "average indexed monthly earnings" (AIME). Compute the PIA using portions of the AIME which are multiplied by constant percentages called "bend points" depending on the year of eligibility. This method, which appears in Appendix T, applies to members who reach age 62, become disabled or die after 1978. See subparagraph 460203.B.3 for the exception. If the member was in a missing-in-action status and is later presumed dead, include in social security benefits only the earnings through the year in which the member entered the missing status.

★3. Under the Transitional Guarantee savings provision, which applies to any member who became age 62 during the period January 1, 1979 through December 31, 1983, the social security offset is computed under the Decoupled (Indexing) Method and the Transitional Guarantee formula. The Transitional Guarantee formula is computed using the pre-1979 PIA Table Method, except that earnings in the first year of eligibility and later are not included. The DFAS uses the method that provides the higher social security benefit.

C. A member with SSBP waives the right to have an SBP annuity computed under the social security offset method. The waiver is irrevocable.

460204. Offset to SBP Annuity Because of Social Security Benefits. The offset is based on the member's active military service after December 31, 1956. The reduction factor applies against the total military PIA calculated to member's age 65, unless the annuitant demonstrates that the benefit was reduced because the member was receiving a nondisability social security retirement benefit before age 65. Establish and continue the offset unless evidence is received that makes it improper. The burden is on the survivor to furnish documentation for this purpose. In applying this offset, the annuitant is considered entitled to social security benefits even if he or she has not applied for those benefits. The annuitant also is considered to be entitled, if otherwise eligible, but instead has elected to receive benefits based on his or her personal employment or the employment of some third person.

NOTE: SBP annuity is not reduced by social security offset if the Social Security Administration (SSA) determines that the annuitant is ineligible for benefits.

A. Denial of Benefits. When establishing a social security offset, advise the annuitant to submit a copy of any letter denying social security benefits. Reasons for denial of benefits include, but are not limited to, the following: insufficient credits for a member to qualify for a benefit, administrative denial, and receipt of a governmental pension.

B. Reduction of Benefits

1. A working widow(er)'s social security offset is reduced to the same extent that the full social security benefit is reduced. For example, if a widow loses 80 percent of the full social security benefit as a result of wages or salaries earned and receives only 20 percent of the benefit, the offset is computed by taking 20 percent of the member's benefit based on military earnings times the widow(er)'s offset factor. The social security offset is adjusted on verification of the social security reduction shown on the Annual Report of Earnings letter.

2. If social security payments are reduced because of employment of the widow(er) at any age with only one dependent child under age 16 (or disabled before age 22, while unmarried), the amount of the offset is a ratio computed as follows:

$$\text{Offset} = \frac{\text{Total mother's benefit after SSA reduction}}{\text{Total mother's benefit before SSA reduction}} \times \text{Mother's benefit attributable to military service}$$

The offset is recomputed on receipt of the Annual Report of Earnings letter furnished by the SSA. Significant changes in earnings during a calendar year may be reported to adjust benefits and preclude large overpayments at the end of a calendar year.

3. Offset may be reduced because of work even though no claim has been made for social security benefits.

4. If the deceased member drew nondisability social security retirement (old-age) benefits before age 65, step 16 of Appendices S and T provides for a reduction in the social security offset calculation. The social security offset calculation is not adjusted if the annuitant drew nondisability benefits before age 62.

C. Period of Offset

1. No dependent children. Social security offset begins the first day of the month after the widow, widower, or former spouse reaches age 62 or when the member dies if the annuitant is age 62 or older. The offset percentage factor is computed under subparagraph 460205.A., below.

2. One dependent child. Social Security offset began the first day of the month in which there was only one dependent child remaining. Social Security offset due to receipt of mother's SSA benefit was terminated after February 1986 under Public Law 99-145 (reference (fc)).

460205. Offset Factors

A. Widow, Widower, or Surviving Divorced Spouse's Benefit. The offset percentage factor is permanently fixed based on the survivor's age on the date the annuity starts. If the survivor's age is:

1. Under 62, the offset factor is 82.9 percent of military PIA at age 62 when the offset becomes effective.

2. Between 62 and 65, the offset factor is 100 percent of the military PIA less 19/40 of 1 percent for each month the widow or widower is under 65. See Appendix O for table of computations.

3. Age 65 or over, the offset factor is 100 percent of military PIA.

NOTE: Fractions of a month are not considered in computing the factor for ages 62-65; 6 months or over do not constitute an additional year. Before October 1977, the offset percentage for the widow or widower age 62 or over was computed at 82.5 percent of the PIA.

B. Mother's Benefit. The offset is 75 percent of the PIA based solely on the member's active service. The offset is reduced by any amount not payable by SSA because of the widow's earnings.

460206. Computation of Social Security Offset. See Appendix S for computation of social security offset for members whose eligibility year is before 1979. See Appendix T for computation of social security offset for members whose eligibility year is after 1978. The amount of the social security offset that was effective December 1, 1980, may not exceed 40 percent of the annuity payable to the surviving spouse or former spouse.

460207. Computing Social Security Offset for 10 U.S.C. 12731 (reference (c)) Retirees. The member's military earnings are computed on periods of active duty or active duty for training after December 31, 1956. Free wage credits are awarded assuming active duty tours were performed during July, unless information is provided showing actual active duty tours.

A. The member is credited with free wage credits of \$300 in any calendar quarter from January 1, 1957, through December 31, 1977, in which active duty or active duty for training wages were paid.

B. The member is credited with free wage credits in \$100 increments for each \$300 of active duty or active duty for training wages paid after December 31, 1977.

C. Any period of less than 30 continuous days of service performed on or after December 1, 1980, for which the member is entitled to a federal tax refund of the social security tax paid on the income from that service is excluded from the computation for the social security offset.

D. Appendices S and T are applicable for computation of social security offset for 10 U.S.C. 12731 (reference (c)) retirees.

<b>ANNUITY FOR WIDOW OR WIDOWER OR FORMER SPOUSE (SPOUSE CATEGORY)</b>				
<b>R U L E</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
	<b>If member died or was declared dead after September 20, 1972 and was (note 8)</b>	<b>and the annuitant was</b>	<b>and the annuity is (note 6)</b>	<b>offset by (note 9)</b>
<b>1</b>	in a retired status	married to member on date of election (pre-September 21, 1972 retiree) or on date of retirement and married to member at time of member's death (note 1)	35 or 55 percent of base amount of coverage on date of member's death (note 2)	Dependency and Indemnity Compensation (DIC); Social Security offset.
<b>2</b>		married to member a minimum of 1 year at time of member's death if marriage occurred after September 21, 1973 (pre-September 21, 1972 retiree) or on date of retirement (note 3)		
<b>3</b>		the parent of a "living issue" of the marriage which occurred after September 21, 1973 or date of retirement (note 4)		
<b>4</b>		the former spouse of a member when member became eligible to participate September 8, 1982 or later; or the former spouse that a member acquired after becoming eligible to participate and who had been married to member at least 1 year or was the parent of issue of that marriage (note 4)		
<b>5</b>	on active duty before September 21, 1972 and was entitled to retired or retainer pay but had not applied for or been granted such pay	married to member on member's date of death	55 percent of retired pay to which the member would have been entitled at date of death based on active service as adjusted from date of death through November 30, 1980 (note 7)	DIC, Social Security offset, RSFPP annuity.

**Table 46-1. Annuity for Widow or Widower or Former Spouse (Spouse Category)**

<b>R U L E</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
	<b>If member died or was declared dead after September 20, 1972 and was (note 8)</b>	<b>and the annuitant was</b>	<b>and the annuity is (note 6)</b>	<b>offset by (note 9)</b>
<b>6</b>	on active duty September 21, 1972 or later but was qualified for retired pay but had not applied for or been granted such pay	married to member on member's date of death or the former spouse of a member when member became eligible to participate on September 8, 1982 or later; the former spouse member acquired after becoming eligible to participate and who was married to member at least 1 year or the parent of issue of that marriage; or the former spouse which member was required under a court order or spousal agreement to provide an annuity to upon becoming eligible to participate (note 10)	35 or 55 percent of retired pay to which member would have been entitled based on years of service at time of death (note 2)	DIC, Social Security offset.
<b>7</b>	on active duty September 21, 1972 or later, completing 20 years of active service but, before member is able to retire as a commissioned officer because member has less than 10 years of active commissioned service		35 or 55 percent of retired pay to which member would have been entitled based on the basic pay rate at time of death for highest grade other than a commissioned officer grade in which member served on active duty satisfactorily as determined by the Secretary of the Military Department concerned (note 2)	
<b>8</b>	on active duty after having been retired but immediately recalled to active duty		35 or 55 percent of retired pay entitlement on date of death which pay may be computed under 10 U.S.C. 1402(a) or (e), whichever is higher and which previous election has no effect (note 2)	
<b>9</b>	on active duty after having retired and recalled to active duty for more than 30 days after break in service		35 or 55 percent of retired pay at time of death. Pay may be computed by whichever of two methods gives the higher rate of annuity: (a) as if member had never retired and computed as if rule 5, or (b) pay at the time of retirement, with applicable adjustments for SBP coverage as elected by the member (note 2)	

**Table 46-1. Annuity for Widow or Widower or Former Spouse (Spouse Category)  
(Continued)**

R U L E	A	B	C	D
	If member died or was declared dead after September 20, 1972 and was (note 8)	and the annuitant was	And the annuity is (note 6)	offset by (note 9)
10	eligible to authorize Reserve Component annuity and dies: (a) before being notified of retirement eligibility under 10 U.S.C., Chapter 1223, or (b) during the 90-day period beginning when member receives notification of retirement eligibility, if member had not made an election	married to member on member's date of death or the former spouse of a member when member became eligible to participate September 8, 1982 or later; the former spouse member acquired after becoming eligible to participate and who was married to member at least 1 year or the parent of issue of that marriage; or the former spouse which member was required under a court order or spousal agreement to provide an annuity to upon becoming eligible to participate (note 10)	35 or 55 percent of retired pay to which member would have been entitled based on years of active service when the member died and computed on basic pay rates in effect on the effective date of the annuity (note 2)	DIC, Social Security offset.
11	being carried in a "missing in action" status at the time determination of death was made by the Secretary of the Military Department concerned, provided member met retirement eligibility at time of declaration of death	married to member on date Secretary concerned makes the determination of death	(See rule 5.)	DIC and Social Security offset.
12	retired from both military and civil service but did not waive military service for civil service purposes	(See rules 1, 2, or 3.)	(See rule 1.)	
13	retired from both military and civil service, waived military retired pay for civil service purposes, but did not elect survivor coverage at any level under the civil service retirement			

**Table 46-1. Annuity for Widow or Widower or Former Spouse (Spouse Category)**  
(Continued)

## NOTES:

1. For a member married to the same spouse at time of retirement and date of death, the statute does not require that an intervening divorce be followed by 1 year of remarriage immediately before date of death.
2.
  - a. If the beneficiary is under age 62 when becoming entitled to the annuity, the monthly annuity shall be 55 percent of the annuity base amount (as adjusted under 10 U.S.C. 1401a). The SBP annuity shall be reduced to 35 percent on the first day of the month after the beneficiary reaches age 62. However, if the beneficiary is eligible to have SBP annuity computed under the old social security offset method, 10 U.S.C. 1451 (e), the more favorable computation is payable. If a member has SSBP coverage, the member was required to waive any annuity computation under the social security offset method and the SSBP annuity of 5, 10, 15, or 20 percent of the annuity base amount, as elected by the member and adjusted under 10 U.S.C. 1401a, begins on the first day of the month after the beneficiary becomes age 62.
  - b. If the beneficiary is age 62 or older when becoming entitled to the annuity, the monthly SBP annuity shall be 35 percent of the annuity base amount (as adjusted under 10 U.S.C. 1401a). However, if the beneficiary is eligible to have SBP annuity computed under the old social security offset method, 10 U.S.C. 1451(e), the more favorable computation is payable. If a member has SSBP coverage, the member was required to waive any annuity computation under the social security offset method and the SSBP annuity of 5, 10, 15, or 20 percent of the annuity base amount, as elected by the member and adjusted under 10 U.S.C. 1401a.
  - c. Under the social security offset method, 10 U.S.C. 1451(e), a former spouse was entitled to 55 percent less no social security offset, if the divorce from the member became final before November 30, 1989, (date of P.L. 101–189 technical amendment to 10 U.S.C. 1451(e)).
3. Minimum requirement for a marriage is 1 year. A widow(er) previously ineligible to receive an annuity because of a 2-year requirement may now qualify for the annuity. No monetary adjustment is made for persons before October 1, 1976.
4. "Living issue" means the "issue by that marriage" or a child of such marriage who dies shortly after birth (such child's birth is the criterion, not the duration of the child's life).
5. If member is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to participate in the Plan or if a member has made an election to provide former spouse annuity, the Secretary concerned may not pay the annuity to the surviving spouse.
6. All SBP monthly annuities to which a survivor becomes entitled on or after October 1, 1983, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. Annuities to which survivors were entitled on September 30, 1983, shall not be rounded until there is an adjustment under 10 U.S.C. 1401a; then the amount, as adjusted, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1. All subsequent adjustments shall be based on the rounded amount. SSBP annuities, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.
7. If the "forgotten widow" is entitled to an SBP or RCSBP annuity resulting from a subsequent marriage to a member, the individual may not receive the two annuities, but must elect in writing which to receive. The annuity for a "forgotten widow" is effective December 1, 1980.
8. Under 10 U.S.C. 1448(d), annuity is payable to the surviving spouse and dependent children of a person who dies on active duty after September 20, 1972, and the former spouse of a person who dies after September 7, 1982. Under 10 U.S.C. 1448(f), annuity is payable to the surviving spouse and dependent children of a person who dies after September 30, 1978, and the former spouse of a person who dies after September 7, 1982.
9. If annuity is computed as 35 percent of the annuity base amount for an annuitant age 62 or older, the social security offset reduction under 10 U.S.C. 1451(e) does not apply.
10. Former spouse annuity applicable only where member dies after September 7, 1982.

**Table 46-1. Annuity for Widow or Widower or Former Spouse (Spouse Category)**  
(Continued)



SAMPLE COMPUTATION OF SBP COST REFUND EFFECTIVE THROUGH FEB 28, 1981 (Note 1)										
Election or Change Effective (note 1)	Period Through (note 2)	Base Amount	Annuity	Simulated DIC Award During This Period Would Have Been	Difference	New Base Amount (note 4)	Original Cost for Spouse (note 3)	Adjusted Cost	Difference in Cost	Refund Due Widow/er (note 5)
1 Oct 72	30 Jun 73	\$1,000.00	\$550.00	\$337.00	\$213.00	\$387.27	\$77.50	\$16.23	\$61.27	\$551.43
1 Jul 73	31 Dec 73	1,061.00	583.55	337.00	246.55	448.27	83.60	22.33	61.27	367.62
1 Jan 74	30 Apr 74	1,119.36	615.65	337.00	278.65	506.64	89.44	28.16	61.28	245.12
1 May 74	30 Jun 74	1,119.36	615.65	394.00	221.65	403.00	89.44	17.80	71.64	143.28
1 Jul 74	31 Dec 74	1,191.00	655.05	394.00	261.05	474.64	96.60	24.96	71.64	429.84
1 Jan 75	31 Jul 75	1,276.74	702.21	394.00	308.21	560.38	105.17	33.54	71.63	501.41
1 Aug 75	28 Feb 76	1,341.85	738.02	441.00	297.02	540.04	111.69	31.50	80.19	561.33
1 Mar 76	30 Sep 76	1,414.31	777.87	441.00	336.87	612.49	118.93	38.75	80.18	561.26
1 Oct 76	28 Feb 77	1,414.31	777.87	476.00	301.87	548.85	118.93	32.39	86.54	432.70
1 Mar 77	18 Apr 77	1,482.20	815.21	476.00	339.21	616.75	125.72	39.18	86.54	138.38

## NOTES:

1. The DoD Actuary's formula, as approved by the SBP Board, was available for use beginning March 1, 1983. For example: If the cost refund period extends from April 1, 1980 through September 30, 1983, the portion of cost refund for April 1, 1980 through February 28, 1981, is computed using Table 46-2. The portion of the refund for March 1, 1981 through September 30, 1983, is computed on the DoD Actuary's formula. See Table 46-3.
2. Legend: Member is a colonel, first election effective October 1, 1972 for spouse and children. Member died on April 18, 1977. DIC awarded on April 19, 1977.
3. Refund of cost is made for cost of coverage for spouse only.
4. New base amount is computed by dividing the difference of the annuity and DIC award by 55 percent.
5. Interest charges are due to delinquent cost should not be refunded to annuitant.

Table 46-2. Sample Computation of SBP Cost Refund Effective Through February 28, 1981 (Note 1)

**REFUND OF MONTHLY PREMIUM FOR SBP EFFECTIVE MARCH 1, 1983 (See Note)**

All figures should be in month that premium calculation is desired. A change would occur in any month the base amount, DIC, or cost changes. Additionally, the cost formula for spouse and former spouse changed effective March 1, 1990.

1. Month of premium calculation =
2. Actual SBP base amount =
3. Spouse annuity = (.35 or .55) times (2) =
4. DIC amount =
5. Revised spouse annuity = (3) minus (4) =
6. Revised base amount = (5) divided by .35 (or .55) =
7. Calculate N.

For members with cost computed on the 6.5 percent flat-rate reduction formula, skip to (17).

- Step 1. Month of retirement =
- Step 2. Point in time premium calculation is desired =
- Step 3. List all applicable cost of living increases which the member received between (or included in) the months listed in steps 1 and 2 as a factor of 1.xxx where xxx is the cost of living increase. For example, the 4.4 percent cost of living increase of March 1981 would be listed as a factor of 1.044.

FACTORSFULLSPECIAL

Beginning of SBP	1.0	
March 1981	1.044	
March 1982	1.087	
April 1984	1.039	1.033
December 1984	1.035	
December 1986	1.013	
December 1987	1.042	
December 1988	1.04	
December 1989	1.047	
December 1990	1.054	
December 1991	1.037	
December 1992	1.03	
December 1993	1.026	
December 1994	1.028	
December 1995	1.026	

- Step 4. Multiply all factors in step 3 together. If no factors appear in step 3, use 1.0 here. =

**Table 46-3. Refund of Monthly Premium for SBP Effective March 1, 1983 (See Note)**

Step 5.	$N = \text{Step 4 times } 300 \text{ (or initial threshold amount if it was not \$300)}$	=
8.	Revised base amount minus $N = (6) - (7)$ (if less than zero, use zero)	=
9.	.025 times the lesser of (6) or (7)	=
10.	.1 times (8)	=
11.	Revised premium = (9) + (10) If actual premium for the month known, skip to (15)	=
12.	Base minus $N = (2) - (7)$	=
13.	.1 times (12)	=
14.	.025 times (7)	=
15.	Actual premium = (13) plus (14)	=
16.	<u>Monthly refund</u> = (15) – (11)	
17.	If member had cost computed using the 6.5 percent flat-rate reduction formula, the difference in cost due the annuitant is: .065 times (2) less .065 times (6)	=

**NOTE:** Table 46–3 is effective March 1, 1983, for refund periods which include March 1, 1981 or later.

**Table 46-3. Refund of Monthly Premium for SBP Effective March 1, 1983 (See Note)  
(Continued)**

TABLE 46-4	
REFUND OF MONTHLY PREMIUM FOR SBP EFFECTIVE JANUARY 4, 1994 (See Note)	
The refund of premiums due a spouse or former spouse is determined using the following defined values:	
CBP or Current Basic Premium: The actual current premium amount for the basic SBP spouse coverage elected by the member. This does not include premiums for child coverage, Supplemental SBP premiums, open enrollment premium additions, or any interest charges.	
CRP or Current Recalculated Premium: The implied current premium associated with recalculated SBP basic annuity as reduced due to receipt of DIC. This does not include premiums for child coverage, Supplemental SBP premiums, open enrollment premium additions, or any interest charges.	
TP or Total Premiums: The Total Premiums paid by the member for basic SBP, including open enrollment premium additions. This does not include any premiums for child coverage, Supplemental SBP premiums, or interest charges. This amount may be obtained from historical pay files pertaining to the member and/or from a file of total spouse premiums to be produced under the Director of Compensation, ODASD (Military Personnel Policy) by the DoD Actuary and the Defense Manpower Data Center in coordination with the DFAS.	
PR or Premium Refund: This is the premium refund amount. The premium refund is determined according to the following formula:	
$PR = (1 - CRP/CBP) \times TP$	
For example: Member is a retired O-5, deceased July 1, 1993. Data is for June 1994.	
Retired Pay:	\$2,297.00
Current Basic Premium (CBP):	149.31
SBP Spouse Annuity: .55 X 2,297	= 1,263.00
DIC Annuity:	750.00
Recalculated SBP Annuity	1,263.00 - 750.00 = 513.00
Implied Base Amount = \$513.00/.55	= 932.73
Current Recalculated Premium (CRP)	= 60.63
Total Premiums (TP) from Data Files	= 10,153.08
Premium Refund (PR) is:	
$PR = (1 - 60.63/149.31) \times 10,153.08$	
$= (1 - .4060679) \times 10,153.08$	
$= .5939321 \times 10,153.08 = 6,030.24$	

**NOTE: Table 46-4 is effective January 4, 1994 for deaths which occurred on or after January 1, 1993.**

**Table 46-4. Refund of Monthly Premium for SBP Effective January 4, 1994**